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Our File No.: 115599

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

Michael Dovey, Amanda Gill and Joel Sandel,  
individually and on behalf of all others similarly  
situated,

Plaintiffs,

vs.

Unifund CCR, LLC,

Defendant.

Docket No:

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

Michael Dovey, Amanda Gill and Joel Sandel, individually and on behalf of all others similarly situated (hereinafter referred to collectively as “*Plaintiffs*”), by and through the undersigned counsel, complain, state and allege against Unifund CCR, LLC (hereinafter referred to as “*Defendant*”), as follows:

**INTRODUCTION**

1. This action seeks to recover for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (“FDCPA”).

**JURISDICTION AND VENUE**

2. This Court has federal subject matter jurisdiction pursuant to 28 U.S.C. §1331 and 15 U.S.C. § 1692k(d).

3. Venue is proper under 28 U.S.C. §1391(b) because a substantial part of the events or omissions giving rise to the claim occurred in this Judicial District.

4. At all relevant times, Defendant conducted business within the State of New York.

### **PARTIES**

5. Plaintiff Joel Sandel is an individual who is a citizen of the State of New York residing in Kings County, New York.

6. Plaintiff Michael Dovey is an individual who is a citizen of the State of New York residing in Suffolk County, New York.

7. Plaintiff Amanda Gill is an individual who is a citizen of the State of New York residing in Nassau County, New York.

8. Plaintiffs are “consumers” as defined by 15 U.S.C. § 1692a(3).

9. On information and belief, Defendant Unifund CCR, LLC, is a New York Limited Liability Company with a principal place of business in Albany County, New York.

10. Defendant is regularly engaged, for profit, in the collection of debts allegedly owed by consumers.

11. Defendant is a “debt collector” as defined by 15 U.S.C. § 1692a(6).

### **ALLEGATIONS**

12. Defendant alleges each of the Plaintiffs owe a debt (“the Debts”).

13. The Debts were primarily for personal, family or household purposes and are therefore “debts” as defined by 15 U.S.C. § 1692a(5).

14. Sometime after the incurrence of the Debts, Plaintiffs fell behind on payments owed.

15. Thereafter, at an exact time known only to Defendant, the Debts were assigned or otherwise transferred to Defendant for collection.

16. In its efforts to collect the debt alleged owed by Plaintiff Sandel, Defendant contacted Plaintiff Sandel by letter dated December 21, 2017. (“**Exhibit 1.**”)

17. In its efforts to collect the debt alleged owed by Plaintiff Dovey, Defendant contacted Plaintiff Dovey by letter dated August 1, 2017. (“**Exhibit 1.**”)

18. In its efforts to collect the debt alleged owed by Plaintiff Gill, Defendant contacted Plaintiff Gill by letter dated August 1, 2017. (“**Exhibit 1.**”)

19. The letters to each Plaintiff (collectively, the “Letters”) are materially identical.

20. The Letters were the initial communication to Plaintiffs.

21. The Letters are “communications” as defined by 15 U.S.C. § 1692a(2).

22. 15 U.S.C. § 1692g(a) provides that within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing certain enumerated information.

23. 15 U.S.C. § 1692g(a)(3) provides that the written notice must contain a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector.

24. 15 U.S.C. § 1692g(a)(4) provides that the written notice must contain a statement that if the consumer notifies the debt collector in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector.

25. 15 U.S.C. § 1692g(a)(5) provides that the written notice must contain a statement that, upon the consumer’s written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

26. 15 U.S.C. § 1692g(b) provides, “Any collection activities and communication during the 30-day period may not overshadow or be inconsistent with the disclosure of the consumer’s right to dispute the debt or request the name and address of the original creditor.”

27. Even if a debt collector conveys the required information accurately, the debt collector nonetheless violates the FDCPA if that information is overshadowed by other language in the communication.

28. A communication overshadows or contradicts the validation notice if it would make the least sophisticated consumer uncertain or confused as to her rights.

29. A debt collector has the obligation, not just to convey the required information, but also to convey such clearly.

30. A debt collector has the obligation, not just to convey the required information, but also to convey such effectively.

31. A debt collector has the obligation, not just to convey the required information,

but also to convey such clearly, so that the least sophisticated consumer will not be uncertain as to her rights.

32. A debt collector has the obligation, not just to convey the required information, but also to convey such effectively, so that the least sophisticated consumer will not be uncertain as to her rights.

33. While the Letters contain the validation language required by 15 U.S.C. § 1692g, such is located on the back of the letter.

34. While other information in the Letters is set forth conspicuously, the § 1692g rights are positioned in such a way that it discourages the least sophisticated consumer from reading it.

35. There is no transition language on the front of the Letters advising consumers that the § 1692g rights are located on the back of the Letters.

36. While other information in the Letters is set forth conspicuously, the § 1692g rights are positioned in such a way to encourages the least sophisticated consumer to believe that the language is unimportant.

37. While other information in the Letters is set forth conspicuously, the § 1692g rights are positioned in such a way that it discourages the least sophisticated consumer from reading them.

38. While other information in the Letters is set forth conspicuously, the § 1692g rights are positioned and deemphasized in such a way that it discourages the least sophisticated consumer from exercising her rights.

39. The format of the Letters overshadows the consumer's right to dispute the debt, in violation of 15 U.S.C. § 1692g(b).

40. The format of the Letters overshadows the consumer's right to demand verification of the debt, in violation of 15 U.S.C. § 1692g(b).

41. The format of the Letters overshadows of the consumer's right to request the name and address of the original creditor, in violation of 15 U.S.C. § 1692g(b).

42. The format of the Letters is inconsistent with the consumer's right to dispute the debt, in violation of 15 U.S.C. § 1692g(b).

43. The format of the Letters is inconsistent with the consumer's right to demand verification of the debt, in violation of 15 U.S.C. § 1692g(b).

44. The format of the Letters is inconsistent with the consumer's right to request the name and address of the original creditor, in violation of 15 U.S.C. § 1692g(b).

45. The format of the Letters makes the letter reasonably susceptible to an inaccurate reading by the least sophisticated consumer.

### **CLASS ALLEGATIONS**

46. Plaintiffs bring this action individually and as a class action on behalf of all persons similarly situated in the State of New York from whom Defendant attempted to collect a consumer debt using a collection letter substantially similar to the Letters herein, from one year before the date of this Complaint to the present.

47. This action seeks a finding that Defendant's conduct violates the FDCPA, and asks that the Court award damages as authorized by 15 U.S.C. § 1692k.

48. Defendant regularly engages in debt collection.

49. The Class consists of more than 35 persons from whom Defendant attempted to collect delinquent consumer debts using a collection letter substantially similar to the Letters herein.

50. Plaintiffs' claims are typical of the claims of the Class. Common questions of law or fact raised by this class action complaint affect all members of the Class and predominate over any individual issues. Common relief is therefore sought on behalf of all members of the Class. This class action is superior to other available methods for the fair and efficient adjudication of this controversy.

51. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to the individual members of the Class, and a risk that any adjudications with respect to individual members of the Class would, as a practical matter, either be dispositive of the interests of other members of the Class not party to the adjudication, or substantially impair or impede their ability to protect their interests. Defendant has acted in a manner applicable to the Class as a whole such that declaratory relief is warranted.

52. Plaintiffs will fairly and adequately protect and represent the interests of the Class. The management of the class action proposed is not extraordinarily difficult, and the factual and legal issues raised by this class action complaint will not require extended contact

with the members of the Class, because Defendant's conduct was perpetrated on all members of the Class and will be established by common proof. Moreover, Plaintiffs have retained counsel experienced in actions brought under consumer protection laws.

**JURY DEMAND**

53. Plaintiffs hereby demand a trial of this action by jury.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs respectfully request judgment as follows:

- a. Certify this action as a class action; and
- b. Appoint Plaintiffs as Class Representatives of the Class, and Plaintiffs' attorneys as Class Counsel; and
- c. Find that Defendant's actions violate the FDCPA; and
- d. Grant damages against Defendant pursuant to 15 U.S.C. § 1692k; and
- e. Grant Plaintiffs' attorneys' fees pursuant to 15 U.S.C. § 1692k; and
- f. Grant Plaintiffs' costs; together with
- g. Such other relief that the Court determines is just and proper.

DATED: July 23, 2018

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